

BEFORE THE
TENNESSEE STATE BOARD OF EQUALIZATION

<i>In Re:</i> Julia Erb Rogers)	
Ward 80, Block 8, Parcel 202)	
Residential Property)	Shelby County
Tax year 2005)	

INITIAL DECISION AND ORDER

Statement of the Case

The Shelby County Board of Equalization ("county board") has valued the subject property for tax purposes as follows:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$73,600	\$153,100	\$226,700	\$56,675

On February 11, 2006, the property owner filed an appeal with the State Board of Equalization ("State Board").

The undersigned administrative judge conducted a hearing of this matter on April 5, 2006 in Memphis. In attendance at the hearing were the appellant, Julia Rogers, and Shelby County Property Assessor's representative Teri Brandon.

Findings of Fact and Conclusions of Law

The subject property, which is located at 5950 Brierhaven Cove in Memphis, consists of a single-family residence with an attached garage. Built in 1963, this four-bedroom, three-bath home contains 2,586 square feet of living area. Due to what Ms. Rogers described on the appeal form as a "serious structural problem," the northwest corner of the house is sinking. According to an estimate she obtained from a local contractor (Larry Simmons), it would cost some \$20,000 to remedy this defect.

Upon consideration of the taxpayer's complaint pursuant to Tenn. Code Ann. section 67-5-1407, the full county board reduced the appraisal of the subject property from \$255,300 (the Assessor's original value) to \$226,000 – below the range of values indicated by the Assessor's comparative sales analysis. However, while the Assessor had rated the condition of the subject as "fair," all five of her selected comparables were either "average" or "good."

In Ms. Brandon's opinion, the value determined by the county board took all accrued depreciation of the subject improvements into account. The appellant disagreed. By Ms. Rogers' reckoning, "complete modernization" of her home to bring it "up to the standards cited by the board" would cost upwards of \$110,000 (including the structural repair). She contended that, in its present condition, the subject property was only worth about \$185,000. Ms. Rogers apparently derived that figure by multiplying the total living area of her house times the *mean*

sale price per square foot of eight purportedly comparable homes in the neighborhood that sold during the 2003-04 period (\$71.62).

Tenn. Code Ann. section 67-5-601(a) provides (in relevant part) that “[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values....”

Since the taxpayer seeks to change the present valuation of the subject property, she has the burden of proof in this administrative proceeding. State Board Rule 0600-1-.11(1).

Respectfully, after reviewing all the evidence adduced by the parties, the administrative judge finds insufficient grounds for further reduction of the disputed assessment. To her credit, through diligent research, the appellant discovered that several of the Assessor’s comparables had apparently been remodeled prior to the sale. But of the eight comparables cited by Ms. Rogers, two were admittedly distress sales; and six were homes at least 23% larger than the subject that would typically be expected to sell for a lesser amount per square foot. See International Association of Assessing Officers, Property Appraisal and Assessment Administration (1990), p. 162. The two houses most similar to Ms. Rogers’ in size – 5878 Brierfield (2,848 square feet) and 5894 Lynnbrier (2,616 square feet) – sold for nearly \$85.00 per square foot. The property in question is not currently appraised at a significantly higher rate.

Order

It is, therefore, ORDERED that the following values be adopted for tax year 2005:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$73,600	\$153,100	\$226,700	\$56,675

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is

requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 27th day of April, 2006.



PETE LOESCH
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

cc: Julia Erb Rogers
Tameaka Stanton-Riley, Appeals Manager, Shelby County Assessor's Office
Rita Clark, Assessor of Property

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